

REMARKS

Claims 1, 4-6, 8-19, 26-27, and 34-44 are currently pending in the subject application and are presently under consideration. Claim 7 has been cancelled and thus is no longer pending. Claims 1, 5, 6, 8 19, and 34 have been amended herein. A complete listing of claims is shown on pp. 2-7 of this Reply. Amendments herein are directed to emphasize aspects disclosed in the instant patent application and are supported by the originally filed specification.

Favorable reconsideration of the instant patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1, 4-6, 9-19 and 34-44 under 35 U.S.C. §102(e)

Claims 1, 4-6, 9-19 and 34-44 stand rejected under 35 U.S.C. §102(e) over Batke et al. US 7,536,548. Applicants' representative respectfully requests this rejection be withdrawn for at least the following reasons.

A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The *identical invention must be shown in as complete detail as is contained in the ... claim*. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Claims 1, 4-6, and 9-19.—Independent claim 1, from which claims 4-6 and 9-19 depend, recites in part: *an asset component that describes a grouping of one or more factory components to be secured, wherein the grouping of one or more factory components has a severity attribute including at least one of risk and security incident cost*. Batke et al. does not disclose such novel feature. In contrast to what is contended at page 3 of the subject Office action, the cited passage of Batke et al. (col. 2:35-49) does not disclose an asset component as recited in claim 1.

With respect to **claim 19**, the cited document does not disclose the features recited in this dependent claim. As an example, at col. 9:18-23, Batke et al. discloses:

After an SA has been established, the IKE modules 220, 222 send the SA and the shared encryption key to the IPSEC Drivers 230, 232 for use in protecting network traffic. The IKE module or the

IPSEC Driver may **initiate re-keying based on duration lifetime, byte count lifetime, and/or policy changes**, for example. (Emphasis added.)

The foregoing passage clearly conveys that re-keying is not initiated *when the security issue arises or is detected*.

Claims 34-44.—Independent claim 44 (from which claims 35-44 depend) recites, in part: *a processor coupled to memory, the processor configured to ... **modify or terminate the direct communication access when a security problem is detected during the monitor of the direct communication access***. Batke et al. does not disclose such novel aspect. As indicated supra, in Batke et al., the disclosed re-keying is not a modification or termination of direct access based on detection of a security problem.

In view of at least the foregoing, and that the standard by which anticipation is to be measured is *strict identity* between the cited document and the subject matter as claimed, not mere equivalence or similarity (see *Richardson* at 9 USPQ2d 1913, 1920), Applicants' representative respectfully submits that Batke et al. does not anticipate claims 4-6, 9-19 and 34-44, and requests this rejection thereof be withdrawn.

It is noted that a rejection of the subject claims under 35 U.S.C. §103(a) over Batke et al. would be improper in view of 35 U.S.C. §103(c) and that the subject matter of Batke et al. and Applicants' claimed invention were, at the time the invention was made, subject to an obligation of assignment to Rockwell Automation Technologies, Inc.

II. Rejection of Claims 1, 4-6, and 9-19 under 35 U.S.C. §103(a)

Claims 1, 4-6, and 9-19 stand rejected under 35 U.S.C. §103(a) over Rammler (US 2003/0105535) in view of Salowey (US 7,370,350). Applicants' representative respectfully requests this rejection be withdrawn for at least the following reasons.

Independent *claim 1* (from which claims 4-6 and 9-19 depend) recites, in part: *an asset component that **describes at least one of factory components or groupings to be secured, wherein one or more groupings have a severity attribute including at least one of risk and security incident cost***. Rammler and Salowey, individually or in combination, fail to teach or suggest such claimed feature. In particular, it is noted that the subject Office action (at page 10)

concedes that Rammler as modified by Salowey fails to “explicitly disclose that the groupings have associated severity attributes including at least one of risk and security incident cost.”

In view of at least the foregoing, Applicants’ representative respectfully submits that the cited art, alone or in combination, fails to render obvious the features recited in claims 1, 4-6, and 9-19, and requests this rejection thereof be withdrawn.

III. Rejection of Claim 7 under 35 U.S.C. §103(a)

Claim 7 stands rejected under 35 U.S.C. §103(a) over Rammler in view of Salowey as applied to claim 5, and further in view of Hammer et al. (US 2008/0016569). This rejection of the subject claim is now moot in view of cancellation of the subject claim.

IV. Rejection of Claim 8 under 35 U.S.C. §103(a)

Claim 8 stands rejected under 35 U.S.C. §103(a) over Rammler as modified by Salowey and Hammer et al., and further in view of Schleiss et al. (US 2003/0014500). Applicants’ representative respectfully requests this rejection be withdrawn for at least the following reasons.

The subject claim depends from independent claim 1, which recites, in part: *an asset component that describes at least one of factory components or groupings of factory components to be secured, wherein one or more groupings have a severity attribute including at least one of risk and security incident cost.* The cited art fails to teach or suggest such novel feature.

As indicated supra, the subject Office action, at page 10, concedes that Rammler as modified by Salowey fails to “explicitly disclose that the groupings have associated severity attributes including at least one of risk and security incident cost.” To remedy this deficiency of the combination of the primary and secondary cited documents, the subject Office action puts forward Hammer et al..

Hammer et al. generally relates to a security management system that logs or keeps records of security incidents within a computer system and response(s) by security personnel to such incidents. (See, e.g., ¶¶ [0001], [0012], [0013]; Hammer et al.) In particular, at ¶[0015], Hammer et al. discloses:

In addition to its programmability or flexibility, the computer security management system can categorize computer security incidents according to selective properties referred to as attributes.

Attributes are properties of computer security incidents that can assist in the task of prioritizing or just grouping computer security incidents. Attributes can assist in the decision making process of how to handle computer security incidents. **Attributes can include**, but are not limited to the following: **computer incident severity**; incident category; incident scope; incident status; attacker internet protocol (IP) address; attacker ISP name; attacker country; external attacker status; incident type; vulnerabilities potentially causing the incident; entry point; attack profile; target networks; target firewalls; target hosts; target services; target accounts; and damage type. Each attribute can have one or more values or can comprise a scale of values. For example, for the computer incident severity attribute, values could include high, medium, low, unknown. Additionally, attributes do not need to be predefined. That is, attributes can be computer generated or variable or both. Attributes can be generated "on-the-fly" when different computer security incident scenarios are detected. (Emphasis added.)

Accordingly, even though Hammer et al. discloses an attribute that includes **computer incident severity**, Hammer et al. fails to teach or suggest a severity attribute of a grouping of factory components, wherein the severity attribute includes at *least one of risk and security incident cost*. It should be appreciated that at ¶[0097], or any other passage, Hammer et al. also fails to teach or suggest the feature recited in claim 8, in vie that, at the very least, nothing in the cited document teaches or suggests **both** risk and security incident cost for a grouping of factory components. Instead, Hammer et al. merely discloses (see ¶[0097]):

For the computer incident severity attribute, exemplary values could include high, medium, low, unknown, etc. The severity attribute can measure the **damage degree** caused by the incident **or potential damage** that might be caused by a computer security incident.

Schleiss et al. fails to remedy the foregoing deficiency of the combination of the primary, secondary, and tertiary cited documents. Schleiss et al. generally relates to a transactional data communications system that delivers information within an enterprise having a process control system and a plurality of information technology systems. (See Abstract; Schleiss et al.). The information technology systems of Schliess et al. are communicatively coupled to the process control system via a web-services interface and a transactional information server. However,

Schleiss only discloses (e.g., at ¶ [0053]) implementing security similar to that of Rammler via web services that perform security checks based on initial user authentication and verification.

In view of at least the foregoing, Applicants' representative respectfully submits that the cited art, alone or in combination, fails to render obvious the features recited in claim 8 and requests this rejection thereof be withdrawn.

Applicants' representative notes that the subject Office action, at page 10, sets forth Batke et al. as an alternative reference for this rejection of claim 7. It is noted that such a rejection of the subject claim under 35 U.S.C. §103(a) over Batke et al. would be improper in view of 35 U.S.C. §103(c). The subject matter of Batke et al. and the Applicants' claimed invention were, at the time the invention was made, subject to an obligation of assignment to Rockwell Automation Technologies, Inc.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [ALBRP303USA].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,
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